

4. Plaintiffs merely allege (at ¶¶ 107-08) that Louisiana-Pacific Corporation—not Pactiv—destroyed or disposed of material evidence and documents. *See also* Pls.’ Resp. to Defs.’ Mot. to Dismiss (attaching Affs. of Carlton Dukes and Connie Wayne Adams, which allege that Louisiana-Pacific, not Pactiv, may have destroyed relevant evidence).

WHEREFORE, Pactiv Corporation requests that the Court enter an order striking paragraph 109 of the proposed Amended Complaint insofar as it alleges spoliation of the evidence as against Pactiv.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 17, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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